

BEFORE THE  
DEPARTMENT OF SOCIAL SERVICES  
STATE OF CALIFORNIA

In the Matter of the	)	
Statement of Issues Against:	)	
	)	Case No. 7897051001
HENRY A. LEWIS	)	
1526 West 111th Place	)	OAH No. L-9704050
Los Angeles, CA 90047	)	
	)	99 CDSS 15
Respondent.	)	
_____	)	

PROPOSED DECISION

This matter came on regularly for hearing before H. Stuart Waxman, Administrative Law Judge of the Office of Administrative Hearings, on May 27, 1997 in Los Angeles, California.

The Complainant, Martha Lopez, was represented by Enaj C. Leotaud, Staff Counsel.

Respondent, Henry A. Lewis ("Respondent"), was present and was represented by attorney, James C. Williams.

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision.

FINDINGS OF FACT

The Administrative Law Judge makes the following Findings of Fact:

1. The Statement of Issues was filed by Martha Lopez in her official capacity as Deputy Director, Community Care Licensing Division, Department of Social Services, State of California ("Department").

2. On April 17, 1996, Respondent filed an application with the Black Employees Association/Grace Home for Waiting Children Foster Family Agency<sup>1</sup> for a certificate of approval to operate a certified family home at 1526 West 111th Place in Los Angeles. The Department denied that application and this action ensued.

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<sup>1</sup>The Black Employees Association/Grace Home for Waiting Children Foster Family Agency is licensed by the Department to, among other things, recruit foster parents and place foster children.

3. On May 8, 1995, in the Superior Court of California, County of Los Angeles, in Case No. TA033108, Respondent was convicted on his plea of Nolo Contendere, of violation of Penal Code section 496(a) (Receiving/Concealing Stolen Property).

4. Respondent was placed on formal probation for a period of three (3) years and was ordered to pay a fine of two hundred dollars (\$200) and restitution of four hundred fifty dollars (\$450).

5. The facts and circumstances surrounding the conviction were that respondent obtained a car which had been stolen and completely stripped. He installed a motor and transmission, which had also been stolen, into the car. He subsequently reported the car stolen. However, the arresting police officers found Respondent driving the car.

6. On or about August 16, 1983, in Superior Court of California, County of Los Angeles, in Case No. A384247, Respondent was convicted on his plea of guilty of violation of Health and Safety Code section 11360(a) (Transportation and sale of marijuana). Respondent was placed on probation and ordered to pay a fine. The evidence failed to disclose the nature and length of the probation, and the amount of the fine imposed on Respondent in connection with that conviction.

7. The facts and circumstances surrounding the conviction were that Respondent's friend sold marijuana to an undercover police officer while Respondent held the friend's jacket containing an additional amount of marijuana.

8. On July 17, 1973, in Superior Court of California, County of Los Angeles, in Case No. A606054, Respondent was convicted on his plea of guilty of violation of Penal Code section 487.2 (Grand Theft).

9. Respondent was sentenced to one (1) year in county jail. The sentence was suspended and Respondent was placed on probation for a period of three (3) years, was ordered to pay restitution and a fine of five hundred dollars.

10. The facts and circumstances surrounding the conviction were that respondent was the driver of a car from which other occupants snatched a woman's purse.

11. Respondent is still on probation in connection with the 1995 conviction and has paid only one hundred dollars (\$100) of the two hundred dollar (\$200) fine. He has otherwise complied with the terms of his probation. The probation is scheduled to expire on May 7, 1998 unless the court grants early termination.

12. While Respondent claims to be completely rehabilitated and a role model for his two (2) sons, he blames his former

companions for his criminal acts. In addition, his version of the facts and circumstances surrounding the 1995 incident involving the stolen car and car parts is at odds with that of the arresting officer. Respondent lost a great deal of credibility when, in a February 16, 1997 letter to the Department, he denied knowing the parts were stolen even though he admitted such knowledge to the police in January of 1995. Accordingly, the officer's version is given greater weight than that of Respondent.

13. On the other hand, Respondent has taken steps to turn his life around. He attends church regularly and serves the church as an usher. He is well-regarded as a husband and father.

#### DETERMINATION OF ISSUES

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues.

1. Cause exists for the denial of respondent's application for a license to operate a certified family home pursuant to Health and Safety Code section 1550(d), conviction of a crime, as set forth in Findings 3, 4, 5, 6, 7, 8, 9, 10 and 11.

2. Cause exists for the denial of respondent's application for a license to operate a certified family home pursuant to Health and Safety Code section 1558(a)(2) on grounds that respondent has engaged in conduct which is inimical to the health, morals, welfare, or safety of either an individual in, or receiving services from, the facility or the people of this State as set forth in Findings 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12.

While the 1973 and 1983 convictions are remote in time, they, together with the 1995 conviction, demonstrate a history of criminal conduct over a time span exceeding two decades. Respondent is still on probation for his latest violation of the law. While his strides toward total rehabilitation are commendable, his refusal to accept responsibility for his criminal acts and his willingness to lie to the Department in order to achieve his personal goals make him an unacceptable risk at this time.

#### ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

The application of Respondent, Henry A. Lewis, for a license to operate a certified family home is denied.